

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	CC Docket No. 94-129
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning)	
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

JOINT COMMENTS

VarTec Telecom, Inc. ("VarTec") and Excel Telecommunications, Inc. ("Excel"), hereinafter referred to as "the Companies," hereby submit the following joint comments in response to the Commission's Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking in the above-captioned docket, concerning the need for additional minimum requirements for third party verification ("TPV"). The Companies appreciate the opportunity to comment and participate in this matter.

Introduction and Statement of Interest

The Companies provide local and long-distance services to both residential and small business customers nationwide. VarTec, considered a pioneer in offering "dial-around" long distance service, actively markets its local and long-distance services through direct mail and telemarketing campaigns. Excel, on the other hand, primarily markets its local and long-distance services through a nationwide network of independent contractors. Serving as the "first line" of customer satisfaction, these Excel Independent Representatives are encouraged to build long-term relationships with their customers to ensure satisfaction with Excel's products and services on an ongoing basis. In fact, Excel customers are often the family members, friends, business associates and neighbors of these Independent Representatives. As a result, Excel relies heavily on the communication between its Independent Representatives and the customers they enroll—just as VarTec relies on the communication between its telemarketing agents and prospective customers.

In light of the importance of open, clear communication in this process, whether between an Independent Representative and customer or a telemarketing agent and customer, the Companies request that the Commission adopt a “parity” rule that would allow a carrier, or a carrier’s representative, to remain silently on the line during the verification process and then answer any questions posed by the customer—regardless of whether or not the carrier has the equipment to comply with the drop-off requirement. The verification process would be terminated immediately, but the carrier’s representative would be able to communicate any further required information or clarification. The customer could then initiate a new verification. Again, final verification could not be obtained until after the carrier’s sales representative ceased speaking to the customer—eliminating the possibility that the independent nature of the verification process could be improperly influenced.

Specific Responses

The Companies offer the following specific responses to the request for comments on the need for additional minimum requirements for TPV calls in order to maximize their accuracy and efficiency for consumers, carriers, and the Commission.

1. Should third-party verifiers state the date during the taped verification process?

The Commission seeks comment on whether third-party verifiers should state the date during TPV. The Companies believe third-party verifiers should state the full date of the conversation during the taped verification process. This step would not be burdensome to the carrier if added as a requirement, and it would help reduce possible confusion between consumers and carriers and assist the Commission in its enforcement efforts. For example, situations could be avoided where a carrier may have obtained a valid authorization for a past carrier change, but the customer has since switched away from the carrier and now alleges that he or she was switched back to that carrier without authorization.

2. Should the verifier explicitly state that, if the customer has additional questions for the carrier’s sales representative regarding the carrier change after verification has begun, the verification will be terminated, and further verification proceedings will not be carried out until after the customer has finished speaking with the sales representative?

The Commission seeks comment on whether verifiers should clearly state that verification will only be carried out once the customer has finished speaking with the carrier's representative. Indeed, according to Commission rules, final verification cannot be obtained until after the carrier's sales representative has ceased speaking to the customer. Recognizing that customers often have questions that occur to them during the verification process and in order to lessen possible customer confusion, the Companies request that the Commission modify the drop-off requirement to allow a carrier, or a carrier's sales representative, to remain silently on the line, and provide neutral, objective information that responds directly to a customer's inquiry. The verification process would be terminated immediately, but the customer would be able to obtain the required information or clarification in response to his or her inquiry and then initiate a new verification. A parity rule for *all* carriers in the drop-off requirement would reduce the possibility for customer confusion, be practical for carriers to implement, and be easy to enforce. Again, the verification process would be terminated immediately once a carrier's sales representative responds to a customer's inquiry—eliminating the possibility that the independent nature of the verification process could be improperly influenced. Final verification could not be obtained until after the carrier's sales representative ceased speaking to the customer.

3. Should the verifier convey to the customer that the carrier change can be effectuated without any further contact with the customer once the verification has been completed in full?

The Commission seeks comment on whether the verifier should tell the customer that the carrier change can be carried out with no further customer contact once verification has been fully completed. The Companies believe this measure is unnecessary. Specific information elicited during third party verification already conveys the clear purpose of this process—to effectuate a change in carriers for the customer. The Commission has already concluded that scripts for TPV should elicit, at a minimum, the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the change; the names of the carriers affected by the change; the telephone number(s) to be switched; and the types of service involved. Any further statement during TPV to convey to the customer that “the carrier change can be effectuated without any further contact with the customer once the

verification has been completed in full” would be redundant and inefficient. Accordingly, there should not be such a requirement for TPV.

4. Should verifiers be required to make clear to a customer that he or she is not verifying an intention to retain existing service, but is in fact asking for a carrier change?

The Commission seeks comment on whether verifiers must clearly indicate to a customer that he or she is not verifying retention of existing service, but rather is requesting a change in carriers. Again, the Companies assert that such a statement is unnecessary. Specific information elicited during third party verification already conveys the clear purpose of this process—to effectuate a change in carriers for the customer (not to retain or upgrade existing service). The Commission has already concluded that scripts for TPV should elicit, among other things, confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the change; and the names of the carriers affected by the change. Any further statement during TPV to convey to the customer that “he or she is not verifying an intention to retain existing service, but is in fact asking for a carrier change” would be redundant, inefficient and confusing. Therefore, there should not be such a requirement for TPV.

5. Should each piece of information that a third-party verifier must gather under FCC rules be the subject of a separate and distinct third-party verifier inquiry and subscriber response?

The Commission seeks comment on whether each piece of information gathered during the TPV process should be separately and distinctly addressed. The Companies agree that in order to avoid possible customer confusion, each piece of information, in particular the types of service to be switched (e.g., local, intraLATA toll and/or interLATA toll), should be the subject of a separate and distinct third-party verifier inquiry and subscriber response. Such a process would not be burdensome for carriers, and it would make it easier to ascertain whether a subscriber has fully and knowingly provided an answer to each question posed by a third-party verifier since the questions would be presented individually rather than as a group.

6. Finally, when verifying an interLATA service change, should the verifier specify that

interLATA service encompasses both international and state-to-state calls? Should a verifier define the terms “intraLATA toll” and “interLATA toll” service?

The Commission seeks comment on whether, when verifying an interLATA service change, the verifier should state that interLATA service includes both international and state-to-state calls and whether or not the terms “intraLATA toll” and “interLATA toll” should be defined. The Companies do not believe it is necessary for third-party verifiers to specify that interLATA service encompasses both international and state-to-state calls. As noted in the Commission’s Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking, in some jurisdictions (e.g., Hawaii), international service is a separate service such that “interLATA service” would not encompass both international and state-to-state calls. Rather, the Companies advocate further clarification by adopting standardized definitions for the terms “intraLATA toll” and “interLATA toll” service. “IntraLATA toll” would be defined simply as “local toll,” and “interLATA toll” would be defined as “long distance.” These standardized definitions would reduce the likelihood of customer confusion, including situations where customers unknowingly give up a flat rate for intraLATA service they paid to their local exchange carrier when consenting to a carrier change for different services.

Conclusion

WHEREFORE, for the foregoing reasons, the Companies respectfully request the Commission consider these comments as these matters will significantly impact the Companies’ current business operations.

Respectfully submitted,

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